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IN THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF YAKIMA

DEPARTMENT OF LABOR AND INDUSTRIES PUBLIC HEARING-ERGONOMICS

January 13, 2000
2:00 p.m.
Cavanaugh's Hotel
Yakima, Washington

REPORTED BY:
JESSICA SANFORD, CCR NO. SANFO*J350B1

1 I N D E X

2 HEARINGS EXAMINERS:

3 MR. TRACY SPENCER

4 MR. MICHAEL WOOD

5

6

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3 MR. SPENCER: Good afternoon, ladies and gentlemen.

4 I now call this hearing to order. This is a public
5 hearing being sponsored by the Department of Labor and
6 Industries. I am Tracy Spencer, the standards manager,
7 and this is Michael Wood, senior program manager in
8 WISHA Services. We are representing Gary Moore, the
9 director of the Department of Labor and Industries.

10 For the record, this hearing is being held on
11 January 13 in Yakima, Washington beginning at 2:00 p.m.
12 as authorized by the Washington Industrial Safety and
13 Health Act and the Administrative Procedures Act.

14 Once the formal hearing is closed, staff will
15 remain and be available for questions for those of you
16 who did not get your questions answered.

17 If you have not already done so, please fill out a
18 sign-in sheet located at the back table. This sheet
19 will be used to call forward individuals for testimony
20 and to ensure that the hearing participants are notified
21 of the hearing results.

22 For those of you who have written comments that you
23 would like to submit, please give them to Josh Swanson
24 or Jenny Haze at the back table. We will accept written
25 comments until 5:00 p.m. on February 14, 2000, for those

1 unable to submit comments today. Comments may be mailed
2 to the Department of Labor and Industries, WISHA
3 Services Division at Post Office Box 44620, Olympia,
4 Washington, 98504 or e-mail to ergorule@lni.wa.gov or
5 fax to area code 360-902-5529. Comments submitted by
6 fax must be ten pages or less. Those addresses and
7 phone numbers and e-mail address are in your handouts
8 that were provided.

9 The court reporter for this hearing is Jessica
10 Sanford of Central Court Reporting. Transcripts of the
11 proceeding should be requested and are available from
12 the court reporter. Also copies of the transcripts will
13 be available on the WISHA home page in approximately
14 three weeks.

15 Notice of this hearing was published in the
16 Washington State Register on December 1, 1999, and
17 December 15, 1999. Hearing notices were also sent to
18 interested parties. In accordance with the RCW, notice
19 was also published 30 or more days in the following
20 newspapers -- 30 or more days prior to this hearing:
21 The Journal of Commerce, the Spokesman Review, the
22 Olympian, the Bellingham Harold, the Columbian, the
23 Yakima Harold Republic, and the Tacoma News Tribune.

24 The hearing is being held to receive oral and
25 written testimony on the proposed rules. Any comments

1 received today, as well as written comments received,
2 will be presented to the director. Prior to starting
3 the formal hearing, an oral summary of the proposed rule
4 was given and a question and answer period occurred.
5 Please refer to the handout provided to you at the door
6 for a copy of the proposed rule.

7 In order to evaluate the potential impact, economic
8 impact of the proposed rule on small business, the
9 Department completed a Small Business Economic Impact
10 Statement in accordance with the Regulatory Fairness
11 Act.

12 For those of you who have given oral testimony at a
13 previous hearing, you will be called upon after all new
14 testimony has been given, provided time permits. We
15 have several people that want to testify, so I ask you
16 to please limit your testimony to ten minutes. If you
17 don't need ten minutes, that's okay too. If time
18 permits, we'll allow for additional testimony to be
19 given after everyone has had the opportunity to speak.

20 Again, please keep in mind we've allowed for a full
21 month to receive written comments; again, the cutoff
22 dated being February 14.

23 Please remember that this is not an adversarial
24 hearing. There will be no cross-examination of the
25 speakers; however, the hearings officers may ask

1 clarifying questions. In fairness to all parties, I ask
2 your cooperation by not applauding or verbally
3 expressing your reaction to the testimony being
4 presented. If we observe these rules, everyone will
5 have the opportunity to present their testimony and the
6 director to consider all viewpoints in making a final
7 decision.

8 At this time we will take oral testimony. When you
9 come up, please identify yourself, spell your name and
10 identify who you represent for the record. Juvenal
11 Perales and Mike Gempler.

12 MR. PERALES: My name is Juvenal Perales. I am a
13 union representative for United Food and Commercial
14 Workers.

15 THE COURT REPORTER: How do you spell your name?

16 MR. PERALES: J-u-v-e-n-a-l, P-e-r-a-l-e-s. I am a
17 union representative for United Food and Commercial
18 Workers Local 1439. We represent approximately 6,500
19 workers here in Eastern Washington. Most of them are in
20 the grocery industry, but the ones I represent are in
21 the meat processing plant here in Yakima, Yakima Valley.
22 Most of them have caution zone jobs, example like
23 grasping knives and cutting near-frozen meats. These
24 jobs are highly repetitive and require their neck and
25 back to be at an upward angle for long periods of time

1 throughout the day. Any education these workers could
2 receive I believe would help cut down their injuries
3 because workers do not receive any safety education
4 about their jobs.

5 It will be of great benefit for them to receive
6 ergonomics awareness education. Learning about the
7 hazards of their specific jobs would reduce the
8 probability of getting injured. Learning the symptoms
9 and possible injury will help them recognize their
10 problems earlier. That will help keep the cost of
11 themselves and their employers down. I especially like
12 the proposed rule that is aimed at reducing hazards to
13 prevent injuries.

14 WISHA's experience and ideas should be put to use
15 for the benefit of both the employer and employees. We
16 hope that WISHA would be involved in the process of
17 helping employers to come up with the solutions to their
18 job hazards. What's most important to me is that
19 workers' jobs are made as safe as possible. And I'd
20 like to thank you for coming to Yakima and listening to
21 the testimony today I gave to you. That's all I have.

22 MR. SPENCER: Thank you.

23 MR. GEMPLER: Good afternoon. My name is Mike
24 Gempler. I'm director of the Washington Growers League
25 in Yakima. Thank you for holding a hearing in Yakima.

1 Mike, M-i-k-e, Gempler, G-e-m-p-l-e-r. The Washington
2 Growers League strongly supports injury prevention, but
3 we speak in opposition to these proposed regulations.

4 The proposed rules will have an undetermined impact
5 on workplaces. In a phrase, they are open-ended and
6 frankly, we consider them to be somewhat experimental.
7 There's no provision in the proposed rules for
8 accountability of the Department to ensure that these
9 regulations, once they are adopted and begin to have an
10 impact, will be effective and reasonable.

11 The lower risks of seasonal must be considered.
12 The proposed regulations do not take seasonality into
13 account. Why should a workplace where employees will be
14 working for only a few weeks be required to make the
15 same expensive changes in equipment and schedules that a
16 year-round workplace is required to make? Clearly, the
17 risk of injury from repetitive motion and other
18 musculoskeletal disorders is lower in these seasonal
19 workplaces. The proposed regulations do not account for
20 this important distinction.

21 The economic impact of the proposed rules could be
22 destructive to agriculture. The regulations are
23 open-ended with no definition of the potential impact on
24 employers. The regulations have the potential of
25 requiring employers to take measures that decrease

1 employee productivity or require large capital
2 investments for retooling of machinery and equipment.
3 The cost benefit relationship of these proposed rules
4 must be positive in order for agriculture to be able to
5 comply.

6 Many sectors in our agricultural industry cannot
7 afford to increase production costs, period. It is
8 particularly destructive to our industry. It adds
9 regulations that could increase production costs without
10 a corresponding cost benefit to reduced injuries and
11 workers compensation claims.

12 Compliance feasibility must include economics. The
13 definition of the term feasibility as used in.

14 WAC 296-62-05130 must include the economic
15 feasibility of employer compliance. These regulations
16 need something in writing that is akin to the concept of
17 reasonable accommodation in the Americans with
18 Disabilities Act. There is no process in place to keep
19 L & I accountable for its promises or to ensure that the
20 regulations are effective and reasonable. L & I has
21 promised identification of best practices in each
22 industry; development of ergonomics guides and modeling;
23 establishment of inspection policies and procedures;
24 testing guidelines with demonstration employers; and
25 provision of ergonomics compliance examples and

1 information. These promises must be kept and L & I must
2 be made accountable for their delivery.

3 This regulation is the most intrusive reach into
4 the workplace since the creation of WISHA. As a result,
5 legislative oversight is justified. There should be a
6 sunset clause, legislative oversight and a report.
7 There should be oversight by the WISHA advisory
8 committee.

9 We also support the concept of issuing the
10 regulations as a pilot study. Business cannot pay the
11 bill if these regulations are not effective in reducing
12 injuries and lowering workers compensation costs. L & I
13 should not be allowed to put these regulations into
14 place and then go away. We want oversight and review
15 and above all, accountability.

16 The phase-in schedule does not consider seasonal
17 employment. The phase-in schedule, which is determined
18 by the number of employees, was designed to give smaller
19 businesses time to learn from the experience of the
20 larger businesses and make changes over a longer period
21 of time. Small, seasonal employers may have more than
22 50 employees, but only for a few weeks, yet they will be
23 treated like large businesses when in fact they're small
24 businesses that need the additional time. The phase-in
25 schedule should be based on full-time equivalents

1 instead of the nominal number of employees.

2 Agriculture is exempt from the proposed federal
3 ergonomic standard. Because agriculture is exempt from
4 the proposed federal ergonomic standard, we believe that
5 state coverage of agriculture should be held at least
6 until the federal standards for agriculture go into
7 effect.

8 And finally, agriculture is taking a proactive
9 approach to ergonomic safety. Agriculture is not among
10 those industries with the highest incidence of
11 musculoskeletal disorder claims, and as such, is not
12 targeted by L & I for early implementation of the
13 ergonomic regulations. Yet despite the comparatively
14 good ergonomic record of agriculture, the Washington
15 Growers League has coordinated a study of ergonomics in
16 packing houses through the University of Washington
17 Department of Environmental Health field study group.
18 This has been done on a voluntary basis to determine
19 what kind of improvements can be made to improve
20 workplace safety.

21 The imposition of open-ended and potentially
22 destructive regulation is not necessary to motivate our
23 industry to improve workplace safety. Thank you very
24 much.

25 MR. SPENCER: Thank you. Victor Serna, Marta

1 Aguirre and Ranulfo Qutierrez.

2 MR. SERNA: First of all, thank you for coming to
3 Yakima and having the hearing today. I'm Victor Serna,
4 last name is S-e-r-n-a. I'm business representative of
5 Teamsters Local 556 in Walla Walla. As a business
6 representative in the labor force, we represent a lot of
7 private as well as public sectors, but the main emphasis
8 is the meat packing industry, currently at Iowa Beef in
9 Pasco, Washington.

10 In this time of occupation there is approximately
11 1,000 employees, 1,400 employees who do daily activities
12 of a very repetitious nature. The meat packing
13 industry, of course, they pack meat. A lot of these
14 jobs are repetitious with knives, continuous person
15 doing a job eight hours a day, six hours a day with the
16 same cut, the same issues that are happening every day.
17 During daily activity we see approximately always 30,
18 40, 50 people on some sort of light duty and a lot of
19 them due to injuries of the repetitious nature of the
20 wrist, shoulders and so forth.

21 We feel that the new rule wouldn't be of major,
22 major assistance for the workers, the labor force, which
23 we also feel should not only include high repetitious
24 jobs in industries, but also the gentleman before me
25 spoke, in the agriculture force as well.

1 I feel currently that agriculture as well, there is
2 not an accurate count of the number of injuries which
3 should also be included not only regular employees,
4 full-time employees, but also in the temporary and
5 seasonal areas as well. Currently the seasonal
6 employees work approximately several months, six months,
7 whatever, return back to wherever they come from, we
8 don't hear from them again. A lot of them take those
9 injuries with them and perhaps they don't return, which
10 aren't counted. So we think it also should be included
11 the labor force full-time employees as well as part-time
12 employees.

13 In the financial basis, I do agree. We feel that
14 the costs of implementing such a program is going to
15 cost quite a bit. But at the end, the costs of
16 implementation will outweigh the costs of the current
17 injuries we're dealing with on a daily basis.

18 With me today I brought two employees that I
19 represent who have suffered firsthand from repetitious
20 jobs. Currently -- one is currently going through the
21 injury, the -- everything associated with that. They
22 don't speak English, so I will act as interpreter as
23 well.

24 MS. AGUIRRE: My name is Marta Aguirre, M-a-r-t-a,
25 A-g-u-i-r-r-e. I work at the Iowa Beef, been there

1 employed for a year. My job is special trim. I have
2 worked the same job seven-, eight-hours a day
3 continuous. I hurt my right wrist. I have so far had
4 one operation on my wrist and looking at the possibility
5 of a second operation. I wish that rules were
6 implemented and provided for assistance to ensure that
7 this will not happen to other workers. That's all.
8 Thank you.

9 MR. SPENCER: Thank you.

10 MR. QUTIERREZ: My name is Aranulfo,
11 A-r-a-n-u-l-f-o, last name is Q-u-t-i-e-r-r-e-z. I work
12 at Iowa Beef for six years. During the first couple of
13 years I hurt my wrist. I also had surgery as a result
14 of a repetitious job. It's been a short while or short
15 time that the company has implemented an ergonomics
16 program. But they've also put in new machinery and
17 before what used to be six employees in one area. But
18 with the implementation of the new machinery to assist
19 us in the ergonomics area, the work force has been
20 reduced from 16 to 10 in that area. And now we're doing
21 the work of 16. We feel this program, this new rule, is
22 something very important and could be effective at the
23 companies, be more careful in the jobs we are doing.
24 Also to act as an oversight to large employers where the
25 programs are designed there's some sort of effective

1 tool to evaluate them by an agency.

2 Like us, we work at Iowa beef, but there's also a
3 lot of other employees or workers that are injured as a
4 result of jobs. We are suffering. The workers are
5 suffering. We are hopeful and hope that the laws are
6 changed and improved.

7 In 1998 there was a complaint filed with Labor and
8 Industries. The result of that complaint, Labor and
9 Industries indicated there wasn't sufficient laws to
10 actively improve or help the workers and that they will
11 need better rules for enforcement. We feel that that is
12 the only way to improve our jobs, is by having better
13 rules and regulations to assist us.

14 We are talking about cost to the employers if these
15 type of changes are made. But we are forgetting and not
16 addressing what's the cost of a human being or a person
17 for having permanent injuries for the rest of their
18 lives. Basically that's the bottom line that we should
19 be thinking about is the cost to the workers, the
20 long-term injuries and disabilities.

21 MR. SERNA: Just to close it up, area of cost and
22 the time to implement these rules. We understand it's
23 something that's going to be very costly to the
24 employers, you're thinking about three to six years. We
25 feel that's a long time for them to implement. We

1 understand because of the magnitude of it it's going to
2 take that long, but we do wish stronger regulation,
3 oversights, having a mechanism in place for employees to
4 be able to utilize a service, contact Labor and
5 Industries and have the faith in the system that their
6 injuries will be heard and their complaints investigated
7 and have better inspectors trained and something in
8 place so that when we file the complaint or we seek
9 assistance, there's something in place to help the
10 workers. Thank you.

11 MR. SPENCER: Thank you. Jerome Aspevig, Thomas
12 Collins and John Johnson.

13 MR. COLLINS: Good afternoon and thank you for
14 having this hearing. My name is Thomas Collins,
15 T-h-o-m-a-s, C-o-l-l-i-n-s. I am the president of the
16 local 69 of the Association of Western Pulp and Paper
17 Workers. I represent the employees from the Wallula
18 Mill. There are approximately 600 people in that mill.
19 We have achieved safety standards at that mill that are
20 commendable. We've twice had a million man hours
21 without a loss time accident. We just had an accident
22 where we had 750,000 man hours. So we take safety very
23 seriously and I believe my employer does too. But the
24 one area that we do not take seriously is the ergonomics
25 problems that people have in that industry. It is a

1 heavy industry. Most of the claims that I represent as
2 the president of the union are around ergonomic
3 problems; carpal tunnel syndrome; lower back strains.
4 These are all common in that industry.

5 I applaud the State for moving forward in this
6 area. The cost of replacing an employee for six to
7 eight months while they are off on carpal tunnel
8 syndrome in my company is huge. It could be reduced by
9 better knowledge of the jobs that these people will
10 enter. We have a department, it's called power in
11 recovery where we have approximately one-third of those
12 people in that department have had carpal tunnel
13 surgeries to their wrists, elbows and shoulders.

14 There is a study done by the state called the Sharp
15 Study. I believe it was done in approximately the '80s
16 where they came in and recognized that this was a
17 problem area but there wasn't enough information at that
18 time to create a program where we would learn what to do
19 and how to solve these injuries. These injuries
20 continue today. These people miss time from work, don't
21 sleep nights, end up spending numerous hours going
22 through training or retraining to get back on the job
23 site, which costs the company money each time they do
24 it. These are large costs to the company, I agree, but
25 the cost overall to retrain somebody is even greater.

1 I applaud the State again for doing this. I hope
2 you continue with it and I hope to see that we get a
3 better education system in our industry to help us to
4 learn what we need to do and show which jobs are the
5 jobs that people need to understand that they may be
6 entering those areas that can cause a repetitive injury.
7 Thank you.

8 MR. SPENCER: Thank you.

9 MR. ASPEVIG: Good afternoon. My name is Jerry
10 Aspevig, J-e-r-r-y, A-s-p-e-v-i-g. I'm the business
11 manager of the IBEW Local 984 out of Richland,
12 Washington. We represent approximately 450 health
13 physics technicians and industrial hygiene technicians
14 working on the Hanford project.

15 In the past five years since being in several of
16 the union leadership jobs, I've watched at least 15
17 percent of my membership suffer the consequence of
18 ergonomic injury from their workplace at Hanford. Those
19 injuries have extended from a few weeks of absence to
20 nearly 18 months of absence. They've involved
21 everything from a carpal tunnel, to neck injuries, to
22 elbow injuries, a number of items that happened because
23 of the work they do. For those of you that are aware of
24 it or are not aware of it, today Hanford is a collection
25 of old buildings that are aging at the rate of 50, 60

1 and 70 years. Through most of Hanford's life there was
2 little or no design changes to those facilities. And
3 back in the '30s, '40s and '50s when those facilities
4 were built, they were not built to be human friendly.
5 There are other factors at Hanford that make it
6 impossible to apply some of the human friendly
7 attributes to design structure. Combine that with the
8 1987 change in mission where Hanford changed from a cold
9 war military and energy research purpose to an
10 environmental restoration purpose and you increase the
11 motivation on the corporate structure there not to want
12 to put money back into those facilities to make them a
13 safer environment to work.

14 Over the past 13 years, some of the multitude of
15 employers have found that they need to address
16 ergonomics. We have a varied approach to ergonomics on
17 that site, but on a voluntary basis it's not working.

18 My interest in being at this hearing is to convey
19 to the hearing board the importance that as this rule
20 moves through its development process and comes into
21 existence that we do everything we can to minimize any
22 type of reduction in what's going to require employers
23 to do a valid, conscientious assessment of what you term
24 the caution zone jobs. Some of these jobs are the type
25 of things where if someone describes it to you verbally,

1 it might be like picking up a pencil. But if I'm
2 standing on the top of a 20-foot ladder using a small
3 tube like a pencil to do some sort of an examination or
4 sampling process, it's not the same thing as someone
5 picking up a pencil. I thank you for this opportunity.

6 MR. SPENCER: Thank you.

7 MR. JOHNSON: My name is John Johnson, J-o-h-n,
8 J-o-h-n-s-o-n. Thank you for coming today and listening
9 to our comments. I'm here to testify as an individual.
10 I'm in the construction industry. I'm here to testify
11 against the ergonomic standards proposed by Labor and
12 Industry. I'm part of the industry which as a whole is
13 committed to safety.

14 When discussing the construction industry, we must
15 realize that the ergonomic injuries reported in the
16 workplace is going down each year. It is important for
17 employers to strive for safety and I know more employers
18 who do not try to send their employees home in the same
19 condition that they come to work in. The standard as
20 proposed fails to address hazards which are increasing,
21 such as ergonomic injuries incurred by truck drivers,
22 but stresses hazards which are a day-to-day occurrence
23 in construction. But these incidents continue to climb.
24 Why are we more concerned with industries which are
25 reducing injuries than with those which are on the rise?

1 And my last comment is, the proposed federal standards
2 for ergonomics excludes construction, agriculture and
3 maritime for a number of reasons. The State's proposal,
4 however, includes these, and I'd like to know why. And
5 that's all I have. Thank you.

6 MR. SPENCER: Thank you. Darla Yount, Leo Slagg
7 and Teresa White.

8 MR. SLAGG: Leo Slagg, L-e-o, S-l-a-g-g. I'm a
9 small farmer, been at it for all my life. At our place
10 I think we have done about all we can do to reduce hand
11 lifting and so on. We still have to pick our fruit by
12 hand and we still have to try to do it with smaller
13 buckets and so on. I don't really believe that we need
14 any rules, but if there are industries that aren't
15 working to comply, so be it. But I think that the small
16 farmer should be exempt from it.

17 At our place we have forklifts wherever we can have
18 one. If we do any lifting, we try to do it as
19 economical as possible. And I don't envy your jobs
20 trying to make a rule that's going to try to cover all
21 the problems you seem to think we have. Thank you.

22 MR. SPENCER: Thank you.

23 MS. WHITE: My name is Teresa White, T-e-r-e-s-a,
24 W-h-i-t-e. I also thank you for coming to hear our
25 comments today.

1 I work for Putterbaugh Construction, who has been
2 in business for 45 years in the construction industry.
3 We have not suffered or experienced any
4 ergonomic-related claims in all of that time. I
5 understand that there are some industries that do need
6 an ergonomic program, but there are also some small
7 companies such as ours that it's not economically
8 feasible for us to provide this kind of service for our
9 work force. We do as much as we can, we follow all the
10 rules. We have safety programs in effect, we want our
11 people to go home safe. If there are other ways of
12 doing activities, we would be willing to explore that,
13 but we are concerned about the financial impact that
14 this rule may cause. Studying the caution zone
15 activities and finding solutions will take a lot of time
16 and I think more time and more money than the Department
17 of Labor & Industries is projecting that to be.

18 We are also concerned about the training and
19 discretion of the inspectors as well as the financial
20 impact of assigning citations when the employer and
21 inspectors do not agree on ergonomically feasible
22 solutions to these situations.

23 There are so many repetitive activities in
24 construction that we do do and we are willing to find a
25 way, and I think most employers are willing to find a

1 way to do that. But I just think that Labor and
2 Industries is not projecting enough, how much time and
3 money it is going to cost us small employers. Thank
4 you.

5 MR. SPENCER: Thank you.

6 MS. YOUNT: My name is Darla Yount, D-a-r-l-a,
7 Y-o-u-n-t. I'm a member of IDEW 984. I work on the
8 Hanford site. Approximately three years ago I started
9 having problems with my right arm. At night it would go
10 numb and wake me up. This was occurring four or five
11 times a month. Within several months, my arm started
12 going numb during the day after extended instrument use.
13 So I went to our on-site first aid with my complaint. I
14 was told I probably had tendonitis. I was given an arm
15 brace and told to take Ibuprofen as an antiinflammatory.
16 I returned to work with no restrictions.

17 Over the threes years since my symptoms started, I
18 have returned approximately six times to first aid or
19 HEF, which is Hanford Environmental Foundation. Each
20 time the diagnosis was the same. Ibuprofen was
21 perscribed and I was returned to work.

22 In June of '99 I once again returned to HEF with
23 almost constant pain and numbness in my right arm. I
24 had already missed about 60 hours of work due to the
25 pain in my arm since the first of the year. This was

1 time taken out of my vacation and sick leave.

2 I was now experiencing pain and numbness in my left
3 arm. I was once again told I had tendonitis and given a
4 work restriction. The work restriction was patient
5 defined and wearing my arm brace.

6 The physicians assistant that was evaluating my arm
7 also referred me to Dr. Walter Hales. Dr. Hales is an
8 orthopedic surgeon specializing in arms and upper
9 extremities. After explaining to Dr. Hales my job
10 duties, he examined me and diagnosed me with carpal
11 tunnel syndrome. Dr. Hales explained to me that
12 constant repetitive motion with my instrument was
13 causing carpal tunnel in my arm to swell and restricting
14 the nerve that it passes through.

15 At this point in time I was unaware that the type
16 of work I do could possibly lead to carpal tunnel. I
17 thought this was something only grocery clerks or
18 persons keyboarding on a continual basis could get.
19 Dr. Hales informed me I had classic symptoms of carpal
20 tunnel and he had in fact treated numerous people in the
21 HBT field at Hanford for the same problem.

22 Dr. Hales felt that my carpal tunnel had progressed
23 to the point I would require surgery in one or both of
24 my wrists. He referred me to Dr. Dickinson for
25 electromagnetic testing to determine the extent of my

1 condition.

2 When I arrived at this appointment, I was told
3 L & I had approved testing for my right arm only. This
4 was due to a paperwork error at Dr. Hales' office.
5 Before Dr. Dickinson started the test, he explained to
6 me carpal tunnel can be treated very effectively without
7 surgery if it's caught early enough.

8 After the testing, he informed me I had a severe
9 case of carpal tunnel and recommended I have surgery as
10 soon as possible. When the nerves are restricted in
11 this manner for extended periods of time, permanent
12 nerve damage will occur.

13 Dr. Hales performed the surgery on my right hand
14 September 30, with plans to perform surgery on the left
15 wrist around the 1st of November. Lockheed Martin
16 protested my claim in mid-October stating they did not
17 feel this was work related. My job has not been
18 evaluated to determine whether my condition is work
19 related, and no independent studies have been conducted.

20 As of today I have been unable to get relief from
21 the pain in my left arm, because L & I is holding my
22 claim in abeyance until I have an independent medical
23 exam in mid-february. My private insurance refuses to
24 authorize surgery for my left arm because they view
25 carpal tunnel syndrome as an occupational injury. If

1 L & I denies my claim, then my private insurance will
2 authorize the surgery.

3 What I hope the proposed ergonomic rules will do
4 for me and my coworkers is bring educational awareness
5 to our jobs and to ensure that our employers evaluate
6 our jobs to determine what type of ergonomic problems
7 we're dealing with.

8 I would like to see the six-year time table reduced
9 for large companies. It's been my experience that they
10 will wait until the last minute to do anything, and I
11 believe most of the large companies already have the
12 resources in place to implement these programs. Thank
13 you.

14 MR. SPENCER: Thank you. Judy Byrd, Manuel Arambul
15 and Richard Nordness.

16 MS. BYRD: My name is Judy Byrd, J-u-d-y, B-y-r-d.
17 My number is P563192. That's how I've been treated
18 since October 14 of '96 when I was hurt on the job
19 because of faulty equipment. I was forced to work at a
20 so-called light-duty job until my first back surgery. I
21 had to fight for any compensation, even after my second
22 back surgery. I am still in this entangled system.

23 In my opinion, L & I is on the side of the
24 employers and not the labor force. Why can't a company
25 have bingo games and the less L & I claims, the more

1 money in the pot? Is this motivation or manipulation?
2 I'm all in favor of job safety, but what about
3 intimidation? Maybe this is where L & I found the money
4 to pay employers millions of dollars.

5 I'm the injured party, not L & I, not the employer,
6 not the doctors, and not the lawyers. The policies and
7 laws need to be changed to help the workers that have
8 already been injured on the job and are entitled to just
9 compensation.

10 MR. SPENCER: Thank you.

11 MR. NORDNESS: My name is Richard Nordness, the
12 last name is N-o-r-d-n-e-s-s. I'm the executive
13 director for the Washington State Tire Dealers
14 Association.

15 Many of our members of the Washington State Tire
16 Dealers Association are very concerned with the proposed
17 changes that L & I is looking at in the ergonomic
18 policies. Our association, along with many other trade
19 associations, oppose L & I's state regulatory action to
20 establish ergonomic standards that are not in
21 consistents (phonetic) with the following criteria:

22 Support by clear and scientific research;
23 prioritization of ergonomics regulatory action based on
24 the highest frequency of the severity of injuries
25 related to workers based on L & I's workers compensation

1 data base.

2 Further, no business should be subject to
3 regulatory action unless they exceed an established
4 reasonable threshold of combination of risk factors and
5 loss time MSD workers compensation claims.

6 No. 3. Approach is narrow in scope and addresses
7 single workers' task activities known to cause
8 musculoskeletal injuries in exclusively similar working
9 and by industry classifications.

10 No. 4. The employer's economic program is
11 determined to be sufficient provided that the employer
12 has made reasonable attempt to identify ergonomic
13 hazards and is making reasonable attempts to correct
14 them. L & I may not substitute its judgement for the
15 employers' unless the proposed corrective action is a
16 true and effective solution that is technically feasible
17 based on scientific consensus, industry accepted general
18 availability, and economically reasonable.

19 No. 5. Flexible in allowing for a variety of
20 abatements as well as the induction of new remedies for
21 the abatement for each identified workers' task activity
22 without interference with lengthy regulatory action.

23 No. 6. Nonwork factors of workers such as obesity,
24 age, hobbies, et cetera, are required elements of
25 evaluation of the workplace abatement of musculoskeletal

1 injuries.

2 No. 7, which we believe is a very important one, is
3 the pilot projects which affected industries are a
4 significant part of the WISHA pre-rule development stage
5 to mitigate the potential of inefficiency and costly
6 mandates of business and potential job loss to workers.

7 No. 8. The quantitative outcomes and economic
8 justifications are established in the initial adoption
9 of each regulatory requirement along with a review and
10 sunset or termination date if results are not
11 substantially achieved. A portion of ergonomic claims
12 should include nonwork factors that may be contributing
13 to the injury.

14 No. 10, Language that would modify the State
15 standard if and when it is passed so that the
16 terminology, definitions and scope of the ergonomic
17 regulation is consistent with the substantial -- and
18 substantially the same as the endeavor or mandates of
19 federal Occupational Health and Administration OSHA. As
20 a state association, the Washington State Tire Dealers
21 Association is always willing to work with the State and
22 the Department of L & I to work out any issues in this
23 relationship. And I thank you for having this here in
24 Yakima so I didn't have to drive all the way to Olympia.

25 MR. SPENCER: Thank you. Steven George, Terry

1 Meloy and Mike Walker.

2 MR. MELOY: My name is Terry Meloy, T-e-r-r-y,
3 M-e-l-o-y. I'm a broker and part owner of Coldwell
4 Banker Associated Realtors in Yakima, Washington. We
5 are both in the property management and real estate
6 marketing business and while we probably won't be
7 directly affected other than maybe data input in either
8 one of our businesses, the contractors and vendors that
9 will be affected by this new ruling will create costs
10 that have to be passed on at least in the property
11 management field. Those costs being passed on to the
12 owners will then in turn be passed on to consumers which
13 is going to deteriorate an already lack of availability
14 of affordable housing in the Yakima area.

15 In the real estate marketing area, these costs as
16 far as data input and that type of thing in our office,
17 cannot be passed on. We're at the mercy of the
18 marketplace. It's a supply and demand industry. Our
19 average sales price last year in Yakima went up 3.4
20 percent; went up double digits, as you may hear about
21 all the time on the west side of the mountains,
22 especially in Seattle, Bellevue, Issaquah, Mercer Island
23 areas. And until such time as the scientific community
24 can definitely define injury-related causes and Labor
25 and Industries can propose scientifically proven

1 remedies to prevent injuries, you should defer in
2 proposing and implementing rules which will raise costs
3 to the employer, possibly cause loss of jobs to
4 employees and even further deteriorate the quality of
5 life to real estate consumers by eliminating even more
6 affordable housing. Thank you.

7 MR. SPENCER: Thank you.

8 MR. WALKER: My name is Mike Walker, M-i-k-e,
9 W-a-l-k-e-r. I'm an area apple farmer and I don't have
10 a prepared statement today, but the things on my mind,
11 thinking back the last eight years I've employed almost
12 700 people. These are all caution zone jobs; picking,
13 thinning the trees, and I have had two
14 L & I claims in that amount of time. And none of them
15 have been work related, carpal tunnel, anything like
16 this. I really don't see where there's a problem, at
17 least not on my ranch.

18 I think these standards are too far reaching,
19 vague, and sometimes, well, they pin us down to the
20 point where we cannot comply. It's going to be
21 impossible. Construction industry is the same way. If
22 you're going to lift a brick, it's going to be heavy,
23 but you still have to lift it. The same with a bag of
24 apples.

25 So I think you ought to retool this and come back

1 and we'll talk about it maybe next year. Thank you.

2 MR. SPENCER: Thank you.

3 MR. GEORGE: Thank you for the opportunity to
4 provide testimony this afternoon. My name is Steve
5 George and I work for the Hop Growers of Washington
6 Association. S-t-e-v-e-n, G-e-o-r-g-e.

7 I come to you today with a few concerns over the
8 proposed regulation. The first one is creating the
9 regulations before OSHA, fed OSHA has completed its
10 process, therefore going beyond the scope of the
11 national effort. We would prefer that we see what the
12 national effort brings and what that scope is before the
13 state jumps out ahead.

14 We would have preferred an educational process to
15 be initiated first. I think the data shows that with
16 the reduction in claims that's currently occurring
17 something is being done right and I think we should
18 build on that and continue with that and see where this
19 goes before we jump into a bunch of complex regulations.

20 We would have preferred that the department develop
21 some pilot programs and gathered more data before
22 implementing these complex rules. The economic impact
23 could be very detrimental to our industry, agriculture,
24 which is still in a depression. Our industry is still
25 dealing and currently dealing with other major increased

1 costs of operation. And like the gentleman before me,
2 spoke, we cannot pass these costs on to the consumer. I
3 wish we could. If we could pass these costs on, we'd
4 like to do a lot of things out there that different
5 groups, organizations and regulators would like to see
6 us do, but we don't have the margins. If the public
7 would like to pay more for food, we'd be all for it.

8 The phasing schedule does not consider seasonal
9 employment, as you've heard previously. Most
10 agriculture employers are small family operations, but
11 many do hire temporary help for very short periods of
12 time to do operations such as harvesting, as you've
13 heard. To consider these employers as large is not
14 accurate. The phase-in period, if this is adopted,
15 should address this issue and give these employers more
16 time to comply.

17 In many respects this rule is very vague. This is
18 going to lead to further confusion for those who have to
19 comply and very subjective enforcement. Further
20 clarification, if this is to proceed, is needed very
21 badly. Thank you.

22 MR. SPENCER: Thank you. What I propose to do is
23 take about a five-minute break and when we come back,
24 we'll have Bill Nicacio, Joe Walkenhawk and Brian
25 McGuire. Come on back about three o'clock.

1 (A SHORT RECESS WAS HELD.)

2 MR. NICACIO: My name is Bill Nicacio. That's
3 Guillermo Bill Nicacio, I should say.
4 G-u-i-l-l-e-r-m-o, Bill, B-i-l-l, Nicacio,
5 N-i-c-a-c-i-o. And I represent the farm workers --
6 Washington Farm Workers Union. I hate to disagree with
7 one of our earlier speakers, Mr. Gempler. He says that
8 the injuries in agriculture are going down. Mr. Gempler
9 stated that injuries in agriculture are lessening every
10 year and we don't see this. We work with -- in our
11 union we have what we call the injured workers
12 committee. And we have a representation or assigned
13 members of approximately 250 and growing.

14 We see injuries in a lot of the agricultural
15 industries; for example, packing sheds and canneries.
16 We see a lot of repetitive motion injuries; we see a lot
17 of skin, arm, forearm irritations and other illnesses
18 due to the chemicals that are used in the processing and
19 canning plants.

20 We see a lot of back injuries, and this is mostly
21 because of the employers speeding up the machinery where
22 the worker cannot keep up with the pace. We see a lot
23 of injuries in the milk industry. We see a lot of
24 tendonitis, arthritis, and other illnesses, the
25 arthritis and tendonitis coming from the butting of the

1 cows, kicking, and slips and falls because, again, the
2 pace is very fast in all of these jobs. We feel that
3 more workers or less animals per worker would help
4 greatly.

5 Meat cutters. That's a heavy job besides being
6 also a very high speed, the chains are going where it
7 causes a lot of injuries, a lot of back injuries,
8 repetitive motion injuries. Slowing -- again, slowing
9 down of the lines would be very, very helpful and
10 recommendable.

11 Farm workers. I think that agriculture should be
12 given a very special investigation because of the
13 variety of different jobs. The jobs are short, the
14 injuries are many. I think it was stated already that a
15 lot of injuries are not reported.

16 Sensitivity to the doctors. We're saying that
17 L & I buys the doctors, okay? This is what we're
18 saying. And I think that the doctors should be also
19 given instructions so they can say, Yes, this is related
20 to the injury or this could be, at least, you know? But
21 when they say, No, this is not job related, then you
22 have to fight them tooth and nail and it's taken up to
23 ten years, sometimes, to establish a claim from the time
24 of injury. And farm workers, migrant workers,
25 especially, they lose out because they can't stay here

1 and fight. The instate workers will stay and they will
2 fight because they know they're injured. And it takes
3 them a lot of time and it takes them a lot of money
4 because they have to spend this money out of their
5 pocket in order to go see the doctor and doctor and
6 doctor and doctor until one doctor they'll find
7 somewhere, probably in Vancouver or Seattle, who has not
8 been bought yet by L & I here in the agricultural
9 community that will say, Yes, of course. How come they
10 didn't see this? So we're saying that, yes, agriculture
11 should be given special attention.

12 There is asparagus cutting. That's a backbreaking
13 job. The pay is low. You stoop down and you're cutting
14 asparagus and because of the low wages that are being
15 paid, you don't raise until you start at the beginning
16 of the row until you get to the other end, and by that
17 time you can't hardly straighten up. And then you empty
18 your bucket or whatever and down you stoop, and again.
19 This is what, six weeks, but the damage is done. Okay?

20 Arching. Hop arching, that's tying the vines
21 together. It's up here (indicating). It's only, what,
22 four weeks, six weeks also, but look at the damage it's
23 done. The pay, again, is low and the pace is fast and
24 you have that slave driver out there, Move it. Move it.
25 Move it.

1 Pruning. It was stated before the hearing that's a
2 job that goes up here. And the pay is so low, then I
3 read in the paper where the wages went down. There was
4 a misunderstanding according to the company that the
5 wages had gone down. They only had to prune the
6 suckers, but not according to the field supervisors.
7 They were saying you have to do a full pruning job on
8 these trees. So I think that higher wages will help in
9 all of these jobs that I mentioned.

10 Now, picking, thinning, all these are motions that
11 they damage you and they are short-term jobs. And when
12 you say that there's hardly any injuries, I would say,
13 Hey, look again. There's injuries in just about every
14 single phase of the jobs in agriculture in the farms.

15 So what we're saying is that L & I should start
16 enforcing some of the regulations that they have. We're
17 also talking to federal people and saying, Enforce your
18 regulations and let's cut down on the injuries. Because
19 all of these injuries are related to neglect,
20 carelessness. The doctors -- I think most of the
21 doctors feel that farm workers are either superhumans,
22 robots or beasts, indestructible beasts, and that we
23 don't hurt and that we are lazy; this is the impression
24 they give to us. And when we go and say, Why are you
25 having problems, they say, Because we feel that this

1 person is capable of working and he doesn't want to
2 work. And that's the answer that we get from a lot of
3 doctors and that's why we say maybe doctors should be
4 sensitized. Thank you.

5 MR. SPENCER: Thank you.

6 MR. MCGUIRE: My name is Brian McGuire with McGuire
7 Lumber. B-r-i-a-n, M-c-g-u-i-r-e. I believe that the
8 standard is going to be very difficult to enforce. It's
9 going to be left open to putting wide interpretation by
10 the compliance officers. And with the administrative
11 costs that are going to be placed on the employers, it's
12 going to result in loss of jobs.

13 I foresee an increased burden on the employers, a
14 probable decrease in net wages for our employees due to
15 reduced work hours, and I think that it's going to put
16 the entire state of Washington in economic disadvantage
17 in the world market.

18 As far as the standard goes, specifically the
19 wording issues that I have, things like "Must be
20 reduced," that language should be changed to reflect
21 attempts that have been made to change the job out of a
22 caution zone. The term "Degree of feasibility," wording
23 here is most likely going to end up in court. I
24 recommend something along the lines "Consistent within
25 the industry's best practices." And then "Widely

1 accepted nationally recognized criteria," in the
2 construction industry there is none, and there's not for
3 the lumber building material dealers and trucking
4 industry.

5 I feel the rule is unfair to larger businesses.
6 The multi-employer liability rule or the Stoot
7 (phonetic) decision will stand under this standard
8 according to Dr. Silverstein, and that's going to
9 require the large businesses to bring smaller
10 subcontractors into compliance prior to their start
11 dates, which is going to increase costs to the larger
12 businesses and that needs to be addressed in the
13 economic impact statement.

14 The timelines for compliance are out of sequence.
15 You need to change the rule to require analysis before
16 education. As it stands, we have to educate our work
17 force on problems and issues that we have not had an
18 opportunity or the time to analyze.

19 Getting back to the best practices. The rule is
20 based on applying best practices and developing best
21 practices. There is no assurance that those practices
22 will be developed. Make the Department of Labor and
23 Industries create their own pilot program, establish the
24 best practices and then write the ergonomics rule based
25 on the reduction in claims that results from that

1 program.

2 I feel the L & I costs are too low and that there
3 will be a huge impact on businesses. L & I has only
4 looked at part of the problem. There are no allowances
5 for capital investments and equipment solutions,
6 mechanization and that kind of thing, the cost of hiring
7 and training new people to reduce the work loads on the
8 existing work force, the problem with finding available
9 workers. A real world cost analysis needs to be done
10 before the cost benefit analysis can be accurate.

11 Appendix B does not adequately allow for compliance
12 of the rule. The appendix needs to be revised to allow
13 employers to better identify caution zone jobs. The
14 references given do not contain information for all
15 industries and most are scientific web sites that are
16 not user friendly to laymen.

17 Additionally, many business do not have access to
18 the Internet. Some of the references that have been
19 given are at a price; they're for sale and that -- the
20 costs of purchasing those needs to comply to the added
21 economic impact statement.

22 There are no available resources for the
23 construction industry, the lumber yards, or in the
24 trucking industry. I contacted Kenworth and our
25 insurance carrier, which is Parker, Smith and Feeks

1 (phonetic) and they told me they'd be happy to help us
2 with ergonomic solutions provided they were in an office
3 setting. But the other jobs that we have, they said
4 there is no data available.

5 The standard as it's written conflicts with the
6 forklift standard; that's OSHA 29(c) FR1910.178104,
7 which states that if the load being carried obstructs
8 the forward view, the driver shall be required to travel
9 with a load trailer. That means the forklift has to
10 drive backwards. Doing so would cause the operator to
11 excessively twist according to Appendix B, which can
12 affect you guys a whole bunch.

13 There is no specific language on what to do to
14 become compliant. Neither the standard nor Appendix B
15 provides tools to help employers comply. L & I should
16 include specific language to demonstrate that which can
17 reduce hazards.

18 The educational requirements are too vague. Define
19 what they want for education. I suggest that you
20 include as detailed information on training as OSHA did
21 with their forklift standard. Employers are required to
22 be aware of ergonomics and -- excuse me. Employees are
23 required to be aware of ergonomics and the risks of
24 their job, but employers are required to identify the
25 risks. The standard is not specific enough to detail

1 how much of that risk has to be identified and how much
2 of it needs to be trained.

3 The standard is not clear as to who is included or
4 excluded. This will become an issue later and it should
5 be addressed now. If the specific heavy equipment, like
6 trucks, is excluded from the vibration standard, then
7 the standard should state that. It doesn't. The
8 standard should identify what movements are exempt as
9 well as what kind of equipment. For example, twisting
10 is not mentioned anywhere in the standard, so therefore
11 we can assume that twisting is okay? Truck vibration is
12 not mentioned. Will that be an issue later on? That
13 needs to be in the standard.

14 For some industries it will be next to impossible
15 to gain compliance despite any effort that they do. The
16 standard does not recognize the varied work and
17 schedules, the construction schedules. The standard
18 fits for production line and office work quite well.
19 The standard needs to include specific data for
20 construction activities so that we can tailor work
21 schedules within those guidelines.

22 Employers that choose to ignore the standard gain
23 an economic advantage. There should be language in the
24 standard that heavily penalizes those employers that
25 cannot document any analysis, training, or other

1 attempts to comply with the standard. It has to be a
2 level playing field for the companies that are going to
3 comply and spend a great deal of money to bring
4 themselves into compliance.

5 Some body shapes and sizes may not be able to do
6 certain jobs. Add to the standard some language that
7 recognizes certain body shapes and sizes and types
8 cannot be allowed to perform specific jobs due to their
9 physical size. Prohibit them from that task due to
10 their physical size if that job can't be changed out of
11 a caution zone job.

12 Inflated experience factors. There will be a spike
13 in claims and experience factors will rise as new claims
14 due to the standard are rated across previous, even
15 though there were no signs or symptoms of an ergonomic
16 injury while the claimant worked for the previous
17 employer.

18 I propose that you should exempt employers with a
19 proven safe workplace based on experience factors. All
20 employers with an experience of .8 or less should be
21 exempt from the standard because sound safety practices
22 are already in place according to L & I's own criteria.
23 That's it for me.

24 MR. SPENCER: Thank you. James Johnson, Jake Jundt
25 and Al Hubert.

1 MR. JUNDT: My name is Jake Jundt, J-a-k-e,
2 J-u-n-d-t. I'm with Tri-Ply Construction, general
3 contractors here in Yakima. We support a safe
4 workplace. The proposed ergonomic regulations by the
5 Department are unclear, open-ended and left to great
6 interpretation.

7 There is a major scientific debate and no consensus
8 on whether or how ergonomic practices would reduce
9 repetitive stress injuries. Is this a major issue as
10 portrayed by the Department? We do not think so as per
11 the past last three years repetitive stress injuries
12 have declined by 17 percent. They are now just
13 4 percent of the national workplace injury statistics.

14 The State should have tested the concept in
15 determining if implementation should occur. At the
16 present time there is no performance-based system that
17 presents a reason to carry out this program.

18 We support legislation to have a demonstration
19 implemented by the State Labor and Industries offices
20 first to bring them up to proposed standards and then
21 see if consideration is necessary. The evidence is not
22 in and field tests have not occurred and a performance
23 base is not established. We therefore oppose the
24 proposal as it presently stands.

25 If these rules are adopted without further

1 scientific collaboration, many jobs will be automated.
2 A previous testifier stated that when new machinery was
3 implemented into the workplace, six jobs were
4 eliminated. It would probably be more cost effective to
5 implement new mechanical technology into many situations
6 than to spend the dollars to assess, on an ongoing
7 basis, I might add, and correct caution zone jobs. This
8 probably puts the most economically challenged people
9 out of work, exacerbating an already high unemployment
10 rate in our area. Who will support these folks? How
11 does this cost get included in your economic analysis?

12 Your data on number of claims seems to include all
13 claims except slips, falls, trips, auto accidents and
14 faulty machinery. Who has analyzed this data to
15 determine which of these claims are ergonomically
16 caused? In the same light, your referenced studies that
17 have justified these rules have not been published as to
18 process procedure used. These studies need to meet the
19 tests of a legitimate scientific community. I think
20 that an aggressive educational program is a better
21 approach and would yield results that would reduce these
22 types of injuries, which I believe is everyone's goal.
23 Thank you very much for coming to Yakima.

24 MR. SPENCER: Thank you.

25 MR. HUBERT: My name is Al Hubert, mayor of the

1 city of Toppenish. I'm representing the City plus we
2 have many small employers and we -- I sort of feel that
3 this sort of represents another one of the unfunded
4 mandates that are placed both on the public sector and
5 now on the private sector. It's one that you want to
6 put in effect right away; there's been no education done
7 as has been mentioned before, been no -- anything in
8 place to demonstrate what must be done. The City has
9 approximately 60 employees; we have firemen, policeman,
10 public works, secretaries, we have a multitude of things
11 that must be done and different ways of doing it.

12 So we really feel that you significantly
13 underestimated the economic impact to employers and for
14 the cost of this program. It would be up to us because
15 you're going to impose the rules now and then we must go
16 out and do all the demonstration or education to our
17 employers or find out how we're going to do it. That is
18 going to cost.

19 We're a city with a small budget, a tight budget,
20 and I might add an accountable budget, to our citizens,
21 so this time it's pretty hard. I ask questions like
22 well, first of all, we feel it does not give enough time
23 to adequately assess the effects of the costs, as I'm
24 getting into the costs of this rule.

25 What happens when the changes in ways of job

1 performances happens? I don't see anything in there
2 that would cover that. We may do one thing today and
3 maybe a different way tomorrow because of how technology
4 and job performance is changing. How will we determine
5 who can perform certain job duties? Will you have a
6 male or a female performance or will it apply to
7 everybody the same? And as I asked before, individuals
8 are different. They have different abilities. They can
9 perform in different ways. So who's going to determine
10 who can and who cannot and how much stress and what
11 stress, other stress, will be put on the body perhaps of
12 a person that's well built in muscles and one that is
13 not? There's just a lot of things that need education
14 and checked out.

15 Right now we have an enormous amount of rules and
16 regulations we have to comply with and this is just
17 another one. So I guess another question would be, if
18 an employer and the L & I inspector disagree at a time,
19 is there a process in place to settle it or are you just
20 going to write a fine based on what that inspector
21 determines? I think there's just much more that needs
22 to be done in this area than just implementing it now
23 and saying we're going to solve all the problems later.
24 That is no way to do it.

25 You say there is a lot of flexibility in this, but

1 as I've stated before, flexibility doesn't mean nothing
2 when you're involved in a lawsuit. So what are they
3 going to pinpoint down with the cause or why, if you
4 have flexibility? Okay.

5 A lot of these other things have been already
6 testified to, so I won't elaborate on them, but I feel
7 that this needs another look at and especially in the
8 cost that you're saying that is going to place on the
9 employer, which is going to be very costly. And to a
10 small city like us, we can see that happening. Thank
11 you.

12 MR. SPENCER: Thank you.

13 MR. JOHNSON: My name is James Johnson. I've been
14 working in the masonry industry since I graduated high
15 school in 1970. J-a-m-e-s, J-o-h-n-s-o-n.

16 No business wants to have injured workers. My
17 question is, will a proposed WAC reduce injuries? No
18 one can prove that it will. In order to comply with the
19 proposed rule, my industry will have to spend a lot of
20 time and effort to change our methods of operation.

21 The masonry industry has been around since before
22 the pyramids. Yes, many elements of the trade have
23 changed since then. However, our finished product is
24 still dependent on the human craftsman being able to
25 touch the materials and put them into place.

1 My fellow workers have chosen to be in the masonry
2 trade. Masons serve a four-year apprenticeship to learn
3 this trade. They know early on about the possibility of
4 work-related injuries that are associated with the trade
5 that they have chosen. A bricklayer does not need a WAC
6 to tell him that his job is hard work or that it is a
7 caution zone job. Labor and Industries' efforts should
8 be placed elsewhere, such as increasing efforts through
9 consultation and education.

10 In closing, I would like to state that I am opposed
11 to this proposed standard. And thank you very much.

12 MR. SPENCER: Thank you. J. Allan Hobart, Mark
13 Gauger and Sharon Reyburn.

14 MR. GAUGER: Mark Gauger, M-a-r-k, G-a-u-g-e-r. I
15 am here on behalf of the Associated General Contractors
16 of Washington, Board of Trustees, which represents about
17 300 union and open shop contractors.

18 The AGC is committed to helping its members create
19 a safe and healthful work environment wherein workers,
20 irrespective of their position within the company, can
21 go home at night free of injuries.

22 The AGC of Washington goes on record opposing this
23 ergonomic standard as written. The following are
24 several flaws with the standard as it is written:
25 Feasibility. There is no affirmative definition. This

1 standard gives no guidance to construction with proven
2 fixes and best practices. The Department also admits in
3 this proposal that they are not able to assist our
4 industry. In the '60s it was feasible to put a man on
5 the moon and bring him back alive. We need a more
6 thorough definition of feasibility today.

7 Training and education. Training and education is
8 the cornerstone of any good safety program. When our
9 contractors have called the Department for help on job
10 site ergonomic assessments, they are told that no help
11 can be given to the field. Only to the office
12 environment of their businesses. AGC would prefer that
13 an educational and training program be instituted by
14 L & I prior to implementation.

15 Cost. The cost associated with this standard will
16 be astronomical. Not only for employers, but also
17 employees. Within construction, a large portion of the
18 workers are required by labor agreements to supply their
19 own hand tools. Employers will be forced to issue new
20 policies for existing and new employees to replace old
21 hand tools with new, improved designs for their specific
22 body type.

23 Labor. This proposed standard will impact labor.
24 Construction is a front line industry which builds the
25 work station. As a front line industry, we are without

1 the ability at this time to purchase materials which are
2 smaller, lighter, and more user friendly. With building
3 materials as they exist, the construction industry will
4 be forced to explore mechanization which will displace
5 existing labor. Thank you.

6 MR. SPENCER: Thank you.

7 MS. RAVER: My name is Cheryl Ann Raver
8 C-h-e-r-y-l, A-n-n, R-a-v-e-r. I appreciate the
9 opportunity to speak.

10 I support the previous statements made by Mr. Mike
11 Gempler and Steve George, who represent the hop growers
12 of Washington. I am an HR manager for John A. Haas
13 (phonetic) and the international hop industry. I've
14 been working for 17 years with L & I claims.

15 As I shared in the public hearing in October of
16 this last year, I had the opportunity with Marylu from
17 L & I in 1994 to come to the work site with two doctors
18 from Wisconsin to do an ergonomic assessment. The
19 education that we gained from that is we were able to
20 educate our employees and also modify our equipment to
21 better help our employees in ergonomic carpal tunnel and
22 lower back injuries. That was a good thing and a good
23 relationship with L & I.

24 I think that education and consultation is a very
25 positive way for employers. All of the employers stated

1 in the last hearing, they all spoke loud to tell you
2 that they couldn't afford this, but none of them opposed
3 education and consultation. I highly believe in that.
4 I think it's effective. I myself, because of the 17
5 years, have had the opportunity to do that.

6 I also thank John from L & I for having the tool
7 box meetings in which us, as employers were able to go
8 and educate ourselves on this. And earlier before we
9 got to the question and answers, the gentleman stated he
10 kept focusing on us, as employers we don't have to worry
11 about those caution zones, those that don't fall under
12 the caution zone jobs.

13 We, as a multistate employer and we, as a multi
14 task employer being in manufacturing and farming, 80
15 percent of our employees are caution zone jobs. So this
16 highly affects us. In the proposed rule, here it states
17 that working with your hands above the head and elbow
18 and above the shoulder for more than two hours a day per
19 workday. We are in the hop industry. We do twining, in
20 which the gentleman said that is a low-paying job, in my
21 opinion, those gentlemen are paid very well. It's the
22 first time I've ever been referred to as a slave driver.

23 We focus on safety and pride ourselves in being a
24 safe employer. That's why our relationship with L & I
25 is so good. We call on them and they come out and

1 assess. We have a picking machine. We ask L & I to
2 come out, assess our place, tell us what we need to do
3 to make sure that that employee is guarded before their
4 finger is pinched or before they lose an arm. So we are
5 very safety-conscious and we pride ourselves in
6 believing in our employees. In our safety meetings we
7 tell them we don't want to have to call your family and
8 tell them you're injured.

9 I attend all the safety meetings in Washington
10 State; I listen to the employees. If they have a
11 concern, we go out and assess what their concerns are
12 and see if as an employer we can fix those. In those
13 meetings some of the things that come up may be focused
14 on ergonomics. We, as an employer have the opportunity
15 to fix them by our choice. We're not being told by the
16 State that all of it has to be done.

17 Also in HR we have job descriptions, we have job
18 analyses. People were asking you earlier today to
19 create one for each person. As an administrator of
20 safety in my business, if you asked to have an
21 assessment done for each individual because of their
22 size or their performance level, you are asking me to
23 increase my administrative, my paperwork. I would have
24 to hire two more people to be able to do that.

25 With job description and job analysis, you're

1 taking what the average person has the ability to do.
2 And if you go outside of that realm, you're asking us to
3 do a lot more. And I don't think sometimes people
4 realize the cost involved in that.

5 To do a job analysis by the State costs us
6 approximately \$175. To have it done by an independent
7 person it costs us about \$60. We take that times the
8 number of employees that we have -- we are a seasonal
9 employer, so when we state the twining that's being
10 done, that is done 30 days out of the month. So 30 days
11 out of the month that gentleman is putting his arms over
12 his shoulder.

13 We have training of hops. That's another one where
14 you state in here, Squatting for a total of two hours
15 per day or kneeling for a total of two hours per day,
16 workday. Two hours a day in my eyes is a light-duty
17 job. Those are the employees that are coming and
18 they've got -- the medical doctor has assessed that they
19 cannot work more than two hours a day. If you enforce
20 this in production and say somebody is only able to
21 train two hours a day or somebody is only able to twine
22 for two hours a day or harvest two hours a day, which is
23 also another function that's done 30 days out of the
24 year, what will happen is as an employer, we will look
25 at this proposed thing as how can we replace it with

1 equipment.

2 So farm workers are going to end up losing their
3 job if we choose that because we can't have them up
4 there twining more than two hours. What equipment can
5 we invest in, because the cost for each individual, if
6 they're assessed to do their job, will override what the
7 equipment would cost us to replace them totally, and we
8 would not have an employee work force.

9 Also, we are a multistate employer. If this was
10 imposed and we, as an employer find that the cost is too
11 costly for us to do production, we have the opportunity
12 to say, Okay, we will reduce our acreage in Washington,
13 increase our acreage in Oregon, process our hops in our
14 manufacturing site in Sydney, Nebraska. We have other
15 options, but you're affecting the economy in Washington
16 State if this proposal goes through and pushes this on
17 us as a cost factor.

18 The gentleman mentioned the cost factor earlier.
19 When this was brought about, we figured in the office
20 setting, let's take an estimate of a minimum of \$150 to
21 do each site in which our employees sit and then we have
22 manufacturing, so we have to take the manufacturing
23 site, then we take the farming site, because we're a
24 multisite. Then we have a warehousing, as Brian had
25 mentioned with the forklifting and how that would be

1 affected. If you take each of those employees and you
2 take the cost that it would take to assess each of their
3 sites and then fix their sites, we're not going to be
4 able -- we're already affected in the industry. We
5 are -- like they said, the industry is not good right
6 now. To impose this, even if it is coming down the
7 road, those that -- our board of directors are going to
8 look at this and say, What is it going to cost us and is
9 it worth it to have Washington State kept on? Can we go
10 outside of Washington State? And we do believe that
11 when the federal comes, then we would abide by it.

12 But we feel that Washington State should educate
13 and consult and that would be the best way for all the
14 employers in our area to benefit from the education of
15 those that work for the State, that they have to provide
16 for us. Thank you.

17 Oh, I'd just like to end with -- Mr. Gempler has
18 said this and I'd just like to support him in saying it.
19 The imposition of open-ended and potentially destructive
20 regulations is not necessary to motivate our industry to
21 improve workplace safety. We totally believe in safety.

22 I am very fortunate in my position to represent the
23 employer and represent the employee. I'm the one that
24 goes with the employee to the doctors; understand what
25 they can and cannot do; I'm the one that's with the

1 employer when he comes back to work and he has to
2 perform that job. So I'm not all employer I am not all
3 employee. I'm the one that gets juggled in between and
4 tries to make everybody happy. Thank you.

5 MR. SPENCER: Thank you.

6 MR. HOBART: My name is Al Hobart and I am
7 secretary-treasurer of Teamsters local 760. Our
8 jurisdiction runs from the Oregon border to the Canadian
9 border, right up through the central part of the state.
10 Our membership averages right around 5,000 and goes over
11 7,000 during the processing season.

12 Again, I want to compliment, as some of the other
13 people testifying have done, that having this hearing
14 here today so all parties can come together, talk about
15 the issues pro and con, and reach a resolution down the
16 road. I do support what is being proposed and I
17 underline proposed, because at this point in time it is
18 a proposal. That's why we're here; to give input, give
19 criticism so that it can be changed, modified, whatever,
20 to make it work for all parties. But it does have to
21 work.

22 This is my 25th year as a union representative and
23 throughout those years I've observed many injuries,
24 ergonomic injuries, not only in the field, but in the
25 office. So these injuries are not congruent to one job

1 function or whatever. They're widespread throughout all
2 industries. Some of us choose to ignore that. And
3 again, I would encourage business, labor, your agency to
4 continue to work together to come up with a resolution.

5 Throwaway employees are no longer an option. When
6 someone is injured permanently, they're injured for
7 life, yes, they can be trained for another occupation.
8 But that's not right, that's wrong. And when I say
9 that, I listened to the argument today on the economic
10 impact. Yes, there will be economic impact; not only to
11 business but to labor. We need to balance that with the
12 threat of injury and the realization that the injuries
13 are there and they are going on as we speak. So this is
14 very important that this program goes on and this
15 proposal in some form is eventually adopted. And thank
16 you for your time.

17 MR. SPENCER: Thank you. Mark Revis, Daniel Morfin
18 and Mary Place.

19 MR. REVIS: My name is Mark Revis. I'm president
20 of the Southeastern Washington Labor Counsel for local
21 348. It's obvious that it is the worker versus the
22 industry and the employer. The costs now with the
23 industry due to commerce from other countries has made
24 it very competitive and very tough. One thing in the
25 industry that I have never had is an employer call me

1 and say, Would you send me a 30-year veteran, a guy with
2 a limp, a guy who has given his life. You talked about
3 the temporary employees in the farm industry. They give
4 their entire life with no pension, no benefits. They
5 work until they can work no more.

6 We need to have the ergonomic rules in place. They
7 need to be in place so they can be fine tuned. You hear
8 these employers, I've been in business for 40 years
9 we're willing to do this. Well, in 40 years if they
10 haven't done it without the regulations, they will not
11 do this.

12 I would encourage you to proceed with this. It is
13 very important. We do work with our employers to make
14 it a safe workplace, but it's very frustrating as an
15 agent to watch a member work and die within a year of
16 retirement. We see this consistently where he has given
17 his all for the industry. Thank you.

18 MR. SPENCER: Thank you.

19 MR. MORFIN: Good afternoon. My name is Daniel,
20 D-a-n-i-e-l, E., M-o-r-f-i-n. I come representing the
21 Washington Farm Workers Union. We have a group of
22 injured workers. We have -- the numbers of injured
23 workers is growing. We average about 150. These things
24 are being discussed now, the safety of workers. It
25 really makes me feel good.

1 I just want to make an observation that this is the
2 only meeting in the agriculture industry in Washington.
3 The majority of the other meetings are on the other side
4 of the mountains. The reason that so many farm workers
5 get injured is because of the pressure, the abuse of
6 farm workers.

7 There is another thing that hasn't been discussed
8 here where there's a lot of injured workers. This is
9 the abuse of chemicals out in the field. These are
10 chemicals that are being prohibited, but still being
11 used. They use them at night. They quit spraying five,
12 six o'clock in the morning. They put another ticket.
13 Labor and Industries never does an inspection of what
14 kind of chemicals were used in those fields.

15 Another thing that is being done where farm workers
16 have been denied the use of bathrooms when they need to
17 go. The other field places inspectors out in the field
18 to make sure that they're abiding by all the safety
19 rules and that they have all the proper equipment.

20 The other is the process of claims or concerns.
21 Farm workers don't have any support when they go and
22 make a claim with Labor and Industries. Labor and
23 Industries has a tendency to listen to the employer and
24 not to the employee, so the employee is at a loss when
25 he wants to bring up a concern.

1 The amount of injuries, a lot of broken bones, et
2 cetera, are not reported because of intimidation from
3 the employers. They threaten them by saying, We'll fire
4 you or you have to vacate the residence you're living in
5 because that's my property. Thank you for coming to our
6 valley, and we'll surely see each other at the state
7 legislature.

8 MR. SPENCER: Thank you.

9 MS. PLACE: Good afternoon. My name is Mary Place,
10 M-a-r-y, P-l-a-c-e, and I am here as the mayor of
11 Yakima, Washington. I have relatively mixed feelings
12 about the testimony because I also am a registered
13 nurse. I have taught orthopedic nursing and I am very
14 well aware of the injuries of what we are speaking. And
15 I know you gentlemen are involved in a balancing act
16 between the safety of workers and the very existence of
17 jobs and that's what I believe we are talking about
18 today.

19 I have some great concerns about the ergonomic
20 rules that are being proposed. Not that I am
21 necessarily opposed to all of them, but I do have some
22 concerns about them. Mr. McGuire from McGuire Lumber
23 recognized several of those, and I would urge that you
24 look at many of those rules as well.

25 There is little or no scientific evidence to show

1 that these proposed rules will make a difference in
2 injuries and I would urge you to do some kind of pilot
3 program to establish whether these rules will indeed get
4 the effect that is desired. They are significantly more
5 stringent than the federal OSHA rules. I am also
6 concerned about that gravely.

7 The City of Yakima tries to run a good work force.
8 We do not want our workers injured. We want to protect
9 them in many ways as best we can from work force
10 injuries. But the rules the way they are outlined are
11 very vague, and I believe Mr. McGuire discussed that at
12 length, so I won't go into all of those details.

13 I at one point had a work station designed for me
14 according to my height and work modes and it worked
15 terribly. I was not comfortable using it. So I hope
16 that you will allow the workers some input into what
17 they can use. That they tell me, Oh, you should have it
18 at this height or that height, it was very uncomfortable
19 and I was unable to use it the way it was set up. So I
20 hope you will allow the workers some input about what
21 was happening to them.

22 But my major concern is what will happen to our
23 work force if after two hours of repetitive motion our
24 employees have to go home. I am very concerned that
25 this will encourage workers and employers to have

1 part-time employees without benefits. This would be a
2 huge economic impact in our valley and I am very
3 concerned about that.

4 As the City of Yakima, we have union rules and we
5 have a civil service commission that defines a job and
6 what that employee will do when that employee can no
7 longer work because they're two hours of repetitive
8 motion are up; what are we valued to do? We must be
9 able to deal with the union and the civil service
10 commission. I don't have an answer for that. I hope
11 you do, because that's something we need to think about.

12 The City of Yakima and the County of Yakima has
13 lost several prospective employers who were going to
14 offer full-time jobs with benefits to many of our
15 workers within this community. We desperately need
16 these jobs and yet because of the stringent rules that
17 the State of Washington has about work force rules,
18 about taxation, we have lost many of these job
19 opportunities, and many of these workers -- employers go
20 elsewhere where the rules are less strict.

21 I know you are doing a balancing act, but I really
22 encourage you to look at all of these things before you
23 enact these rules. Thank you for your time and thank
24 you for coming to Yakima.

25 MR. SPENCER: Thank you. What we're going to do

1 now is we'll take another five-minute break and we can
2 come back for the rest of the testimony, and then we'll
3 have another question-and-answer period for those of you
4 who would like to stay. So come on back at
5 four o'clock.

6 MR. NOSTRANT: My name is Randy Nostrant,
7 R-a-n-d-y, N-o-s-t-r-a-n-t. I represent local 8990 of
8 PAICE International, that's Paperworkers Allied,
9 Industrial, Chemical and Energy of Wallula, Washington.
10 I'm employed by Boise Cascade Corporation, corrugated
11 container division.

12 I personally attended the ergonomic training
13 provided by the Center for Occupational and
14 Environmental Health, Hunter College School of Health
15 Sciences, New York, New York. I am also active in the
16 volunteer safety program based upon the behavioral
17 science technologies implemented by Boise Cascade
18 corrugated container division in 1993. This system
19 of -- is a more complete program for job-related for
20 elimination of injury than is statistically proven.
21 It's an employee/management participation and it is
22 in-house successful as compared to bell curve
23 statistics. The enrollment of employees should be a
24 desired approach by Labor and Industry. Pay
25 participation is on work hours with no expenditure to

1 the company, as in overtime pay or additional training.
2 I observe people working. Through my observations, I am
3 able to tell them the dangers that their job does. I am
4 basically the fly on the wall.

5 But participation should be more than oral
6 presentation. Safety programs as outlined by the WISHA
7 program should include ergonomics. WISHA safety rules
8 are vague. The laws are required to bring in
9 information provided to employees by employers. It says
10 operation, but at what point is participation? Is it 2
11 percent of your work force or 100 percent of your work
12 force?

13 Labor and Industries should provide ergonomic
14 training to employers with 11 or less employees. These
15 businesses do not exceed a financial gain to hiring a
16 \$50-, \$60-, \$70- \$80,000-a-year consultant. Large
17 corporations should be required to implement an active
18 ergonomic/safety program that involves all levels of
19 employees from the CEO all the way down to the janitor.
20 Boise Cascade has implemented this at all of their
21 corrugated containers and all of their mills. Their
22 first one was in Rumford, Maine.

23 Overall cost is getting expensive. It's an
24 employee/employer participation. If there is one or
25 more employee with a distinct job that is not being

1 implemented that day, they can go out and do an
2 observation of an employee working and describe to them
3 the safety hazards they are doing. Ours is that we
4 implement to people that they're not keeping their back
5 straight; they're not bending at their knees.
6 Ergonomics exoskeletal; that's your muscles and your
7 bones. If they're overreaching, they need tools or
8 implements to make their job much easier on their
9 structure.

10 As labor, we also understand that if a person is
11 from five foot six to six foot six, if a person needs to
12 be able to stand taller up to this piece of equipment,
13 then they can have a platform to stand on. But if a
14 person is six foot six, that's too tall. You cannot
15 really bring in a backhoe and dig him a hole to stand
16 in. It's just not feasible.

17 Overall cost is inexpensive to the employer as
18 compared to medical costs. It's very inexpensive.
19 Programs that we participate in if we maintain a lower
20 than average or lower than the corporation desires in
21 accidents, then we are quarterly given an incentive
22 program; that would be a dinner that everybody
23 participates in. It's a little out of the ordinary day
24 in, day out, but it does work. It does show to the
25 employer that safety is there.

1 During the lean years, corporate asked labor to
2 take a pay reduction. Now that the dollar is strong,
3 corporates need to reinvest in their business to reflect
4 moving to the next century and ergonomics is a good
5 investment.

6 Man is a creature of tools and the use of tools has
7 created evolutionary change. But to make evolutionary
8 change, man has to use his brain and that requires
9 everyone from the CEO all the way down to the janitor as
10 to what can be done to make their job less stress upon
11 their bones, their nerves, their muscles. Thank you.

12 MR. SPENCER: Is there anyone else out there that
13 would like to testify on the proposed rules? Come on up
14 and state your name and spell it for the record, please.

15 MR. DUGGAN: My name is Dan Duggan. It's spelled
16 D-a-n, D-u-g-g-a-n. I represent United Steel Workers of
17 America 8147 out of Goldendale, Washington and I work at
18 Gold Metal Aluminum.

19 There's several issues I wanted to bring up here,
20 and first of all, I want to thank you guys for coming
21 here and having the hearing. And I made it on up over
22 the hill and through the woods there and passed a few
23 trucks laying on their back, but made it here.

24 One of the things that was brought up and was
25 talked about, and it's always a big thing with this, is

1 the economic impact. And I really feel for you guys'
2 position as far as trying to deal with everything from a
3 real small business to a major corporation.

4 I work for a fairly -- I guess mid-sized
5 corporation. They always like to say they're the small
6 guy out there, which may be. According to Reynolds
7 Metals, we are. But we are also a multimillion dollar
8 outfit. And they talk about impact on, you know --
9 well, we can't do things because of the impact on the
10 company, you know. We're talking about crane training
11 programs, and walkout tag out programs, and they whined
12 about, you know, this is just too costly. Well, you
13 know, it's when I hear people making comments about
14 these things, it just kind of bothers me. As far as
15 your regulation and stuff here, I actually feel that
16 they need to be a little bit tighter. And I know you're
17 just trying to get information right now. Some of it is
18 just so loose I can sit there and make arguments on both
19 sides of the fence and probably win both of the
20 arguments.

21 One of the problems that we have at our workplace
22 is that a lot of people are afraid to file claims. They
23 say that claims are down. I have a person out right now
24 on arbitration. She's been out of work for about four
25 or five months now just because she, you know, of when

1 she went and filed a claim due to a previous injury that
2 she had with another organization. And she was told
3 legally that she wasn't supposed to put down the details
4 of that information when she filed her initial job
5 application. She didn't put that down. So now all of a
6 sudden they're going back six or seven years and they
7 basically fired her, so now we were trying to get her
8 back on arbitration. I don't know.

9 You know, I've been out in the work force for many
10 years now. I know I strained my back down in BC and I
11 don't know if I told this company that I've been working
12 for for 22 years now that I had a claim there. So I'm
13 also scared to file a claim because what they're doing
14 is going back through everybody's records and digging up
15 and saying, Well, you falsified records. But you
16 know -- so that really gets into the problem of people
17 wanting to file claims.

18 Also, we've had -- I've had workers come on up to
19 me and say that, We were told by a foreman that if we
20 file too many more safety things for as far as getting
21 an injury or whatever that they'll have to get rid of
22 us. Well, that's not -- they go around preaching that
23 you're supposed to report any injury because things --
24 because where I work at it's very hot, there's a lot of
25 chemicals, things can get infected, burns are serious

1 and things need to be dealt with, you know, right then
2 and there. Well, but then you go around telling
3 somebody that, You keep filing these injuries, we're
4 going to have to get rid of you, it's not very
5 proactive.

6 We had a person from the Steel Workers come on in
7 and talk to some of the different people in the
8 different areas. They came into my particular area -- I
9 work in the saw area and homogenizing area -- and he
10 asked one simple question. He says, How many people in
11 here have back problems? Everybody raised their hands.
12 There was only one person out of that whole group that
13 has ever filed a complaint or a claim on their back
14 because they just can't afford to take the time off and
15 they seemed to be getting dinked around with in the
16 whole system.

17 I have one guy that he was out with a back problem
18 and he literally told me, and I advised him against it,
19 that he will go to a proper doctor so he can get
20 released to come on back. Because we have a department
21 manager that says, Not until you can do every function
22 in this job can you come back. And, you know, we've in
23 the past have made some reasonable accommodations for
24 certain people in certain areas and that has worked.
25 We've had people work six, seven years with those

1 accommodations. And I think there are jobs out there
2 that you can do. I'm not in favor of having someone
3 continuing injuring themselves by being on the job.

4 So I know it's always hard to draw the line there,
5 but I would really like to see your agency and the
6 companies work a little bit closer with the unions where
7 you have outfits that are represented by the labor
8 organizations to work on these issues. Because simply
9 letting some other company make the regulations on this
10 is ludicrous, as far as I can see.

11 I have some very good management on down at the
12 aluminum plant and I have some down there I wouldn't
13 want to trust. As a matter of fact, I don't trust. And
14 also as far as there's been some comments made about
15 that we're stepping in front of the federal regulations
16 and stuff. I think it's kind of a good idea to go ahead
17 and be a forerunner in this type of thing. I feel that
18 there's many things that we could be doing down there to
19 prevent those injuries so we wouldn't have these claims
20 and we wouldn't have people with the fear of losing
21 their jobs. I don't want to see anybody get hurt and I
22 honestly believe that most of the employers down there
23 don't want to see anybody get hurt either, but a lot of
24 times they look at the nickel-and-dime issues. And, you
25 know, we've got to make that profit.

1 Also it was talked about on the subcontractor
2 issues. We're getting a lot more subcontracting in our
3 place, a lot of businesses are going to subcontracting,
4 and the company's interpretation of it, because we have
5 a lot of rules and regulations as far as coming onto our
6 plant site and as far as civil rights and stuff.

7 I'm the head of the civil rights committee and
8 different committees, and we always say that we're
9 supposed to have everybody have the same rules and
10 regulations when they come on. Now all of a sudden
11 we're saying, Well, we don't have to pay attention to
12 that because it's a subcontractor. That's his problem.
13 Well, a year ago we had two 15-year-old kids in here
14 working for a contract outfit that was doing concrete
15 work.

16 Now, in our type of industry, we've got molten
17 aluminum and hysters zipping on around the place and all
18 sorts of heavy duty equipment. We happened to walk by
19 and see these two kids looking at them saying, Damn,
20 these guys look a little young. Then finally I walked
21 on over and asked them, How old are you? 15. Oh,
22 really? Brother, I think, was 16. What are you doing
23 here? We work for this contractor. Found out it's the
24 engineer's -- the cast house engineer's sons that are
25 working there. I mean, we instantly got them on out of

1 there. We don't want the kids to get hurt. I mean, you
2 know, I think everyone that has some extra money and we
3 do hire college kids and have them do certain jobs
4 during the summer so they can go to school and get a
5 good education, but there's no -- and the only thing
6 that really happened to the engineer is that now he's
7 the head of the whole maintenance department. I guess
8 that's the way to go down there.

9 Also, you know, if we were to allow the
10 subcontractors, oh, we don't have to pay any attention
11 to any of these issues because they're subcontractors,
12 what's going to happen to our labor force? It's a lot
13 cheaper to go on out and get subcontracts because we
14 don't have to do these things. And, you know, I'm
15 looking at my job and stuff and I don't want any one of
16 the subcontractors to get hurt either. They're often
17 coming on in there and we're always tracking them down
18 to make sure that they're doing things right. We get
19 calls up there, they're working up above on these panels
20 and stuff, molten metal down there, not wearing a mask,
21 they don't have any scaffolding.

22 Mark over here has always -- he's our safety
23 representative for the union. It's a continual thing to
24 be on out there making sure that they don't get hurt.
25 And really we should be instructing them and educating

1 them to do that. But the company has a tendency to look
2 the other way. But I think we need to be working better
3 together than what we're doing right now. I hope that
4 through these programs you guys can work on that, we can
5 get them going.

6 And also when they talk about these safety
7 programs, one time we had a giveaway of a car that was
8 in a drawing. Everybody that was safe got their name
9 tossed in there and at the end of year there was a
10 drawing for a car. I can't believe it. There was
11 people that are upset because certain people were coming
12 onto their crews -- because it was based upon your crew
13 in your area -- Well, this guy is unsafe. We don't want
14 him in here because he'll put us out of this thing for
15 the car. People going around giving and it's not the
16 way it should be done. I mean, safety should be for the
17 fact that you go on home and you're a few dollars richer
18 than when you came to work, but you've got all the same
19 body parts. I thank you for your time and attention.

20 MR. SPENCER: Is there anyone else who would like
21 to testify on the proposal at this point? If not, I
22 want to thank you all for coming, and specifically those
23 of you who testified. This hearing is adjourned at
24 4:15 p.m.

25 (HEARING CONCLUDED AT 4:25 P.M.)

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1 C E R T I F I C A T E

2 STATE OF WASHINGTON)
3) ss.
4 COUNTY OF YAKIMA)

5 This is to certify that I, Jessica Sanford,
6 Certified Court Reporter and Notary Public in and for
7 the State of Washington, residing at Yakima, reported
8 the within and foregoing hearing; said hearing being
9 taken before me as a Notary Public on the date herein
10 set forth; that said hearing was taken by me in
11 shorthand and thereafter under my supervision
12 transcribed, and that same is a full, true and correct
13 record of the testimony of said hearing.

14 IN WITNESS WHEREOF I have hereunto set my hand and
15 affixed my official seal this day of
16 , 2000.

17 Notary Public in and for the State
18 of Washington, residing at Yakima
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1 FILING OF HEARING

2 The following deposition was filed with the Department
3 of Labor and Industries
4 on:

5

6 TITLE: HEARING ON PROPOSED ERGONOMICS RULES

7

8 CAUSE NO.:

9

10 DEPONENT(S):

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12 RECEIVED BY:

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19 Please sign, date and complete the following:

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21 Return via AMS

22 return in enclosed envelope

23 file with clerk of the court

24

25 JS